

§4.610

is sufficient to determine whether the applicant qualifies under the standards of 5 U.S.C. 504(b)(1)(B)(i). The adjudicative officer may require an applicant to file additional information to determine the applicant's eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the exhibit shall so state.

(c) Ordinarily, the net worth exhibit shall be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552, and whether it is covered by the Trade Secrets Act, 18 U.S.C. 1905, or other applicable statutes; why public disclosure of the information would adversely affect the applicant; and why disclosure is not required in the public interest. The material in question shall also be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Department's established procedures under the Freedom of Information Act, 43 CFR 2.11 *et seq.*

43 CFR Subtitle A (10-1-04 Edition)

§4.610 Documentation of fees and expenses.

(a) The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, or project, for which an award is sought.

(b) The documentation shall include an affidavit from each professional firm or individual whose services are covered by the application, stating the actual time expended and the rate at which fees and other expenses were computed and/or charged and describing the specific services performed.

(1) The affidavit shall itemize in detail the services performed by the date, number of hours per date, and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate billed to and paid by the majority of clients during the relevant time periods.

(2) If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide affidavits from two attorneys or agents with similar experience, who perform similar work in the same or similar geographic location, stating the hourly rate which they bill and are paid by the majority of their clients during a comparable time period.

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

(d) The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§4.611 Time for submission of application.

(a) An application must be filed no later than 30 days after final disposition of the proceeding. Action on an application for an award of fees or other expenses filed prior to final disposition of the proceeding shall be stayed pending such final disposition.